

### **REMARKS/ARGUMENTS**

Claims 1 and 3-18 are pending in the application and stand rejected. Applicant has added new claims 19-20 to recite additional aspects of the invention. Further, Applicants have amended claims 1, 4-5, 7, and 10-11 to correct matters of form.

As such, those amendments are not presented to distinguish a reference or directed to the patentability of the invention. Further, those proposed amendments are not intended to narrow the claims or otherwise limit the scope of equivalents thereof. Therefore, the claims as amended are entitled to a full range of equivalents. Entry of the foregoing amendments and reconsideration of the claims is also respectfully requested.

### **35 U.S.C. § 112**

Claims 4 and 5 are rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended claims 4 and 5 obviating this rejection. In particular, Applicants have amended claims 4 and 5 to more clearly recite the density limitation of the HDPE in said A layers. As mentioned above, such amendments are not presented to distinguish a reference or directed to the patentability of the invention, but merely to correct matters of form. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 10 and 11 are rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended claims 10 and 11 obviating this rejection. In particular, Applicants have amended those claims to more clearly identify the particular layers. As mentioned above, such amendments are not presented to distinguish a reference or directed to the patentability of the invention, but merely to correct matters of form. Accordingly, withdrawal of the rejection is respectfully requested.

### **Double Patenting**

Claims 1 and 3-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 23-35 and 37-49 of co-pending application Davis et al. (U.S. Publication No. 2005/0064218; hereafter "Davis").

Applicants respectfully traverse this rejection on grounds that a provisional double patenting rejection should be held in abeyance until a claim, in either the instant application or the co-pending application to which the terminal disclaimer is sought, is deemed allowable but for such double patenting rejection. At that juncture, Applicants will, if necessary, submit the appropriate terminal disclaimer(s) to obviate any then-pending double patenting rejections. Applicants respectfully note that the M.P.E.P. instructs the Examiner to withdraw a provisional double patenting rejection in the earlier filed of two pending applications and to allow that earlier filed application to issue as a patent without a terminal disclaimer. See M.P.E.P. 804(I)(B)(1). Here, the instant application is the earlier filed. Withdrawal of the rejection and allowance of the claims is respectfully requested.

**35 U.S.C. § 102(a)**

Claims 1, 3-9, and 16-17 stand rejected under 35 U.S.C. § 102(a) as anticipated by Culotta (U.S. Patent No. H2073 H; hereafter "Culotta"). The Examiner states, "Culotta teaches co-extruded, multilayer stretch packaging films comprising mLLDPE having a density of 0.910-0.925 g/cc incorporated into the skin and core film layers, wherein the films can have from as few as three layers or as many as nine layers, with specific examples having a five layer A/B/C/B/A structure (Abstract; Col. 5, lines 1-47; Col. 7, lines 14-29; Examples)."

Applicants respectfully traverse the rejection because an A/B/A structure wherein the A layers are skin layers, which may be the same or different, each independently comprising an mLLDPE having a density of between about 0.918 and 0.927 g/cm<sup>3</sup>, and the B layer is a core layer comprising a blend comprising an HDPE and an LDPE, as recited in every claim is not taught, shown or suggested by Culotta. In contrast, Culotta discloses five (5) layer film structures having the architecture of A/B/C/B/A, where the "C" layer would be understood by those of ordinary skill in the art as the core layer; the "A" layer being a skin layer; and the "B" layer being a tie layer or moisture barrier layer. See, Abstract, Figures; Examples; Col. 1, ll. 55-60; Col. 5, ll. 1-3; and Col. 5, ll. 18-22. Further, Culotta states, "While Layer B was chosen to carry the LLDPE in this study, any other film layer or layers in any film structure with as few as three or as many as nine film layers could have been employed without materially altering film

properties as those skilled in stretch film know." Col. 7, ll. 13-17. However, Culotta provides no specific teaching or suggestion with regard to a three layer film, and makes no mention of re-arranging its particular layers disclosed. Accordingly, the possibility of a three layer film mentioned at Col. 7, ll. 13-17 must be a three layer film of A/B/C where layer B is the core layer and layers A and C are skin layers since Culotta requires a minimum of three layers, A, B and C.

Therefore, Culotta does not teach, show or suggest an A/B/A structure wherein the A layers are skin layers and the B layer is a core layer, as recited in every claim. Culotta also does not teach, show or suggest an A/B/A structure wherein the skin layers may be the same or different and each independently comprising an mLLDPE having a density of between about 0.918 and 0.927 g/cm<sup>3</sup>, and the core layer comprising a blend comprising an HDPE and an LDPE, as recited in every claim. For at least these reasons, Culotta does not anticipate the claimed invention. Withdrawal of the rejection and allowance of the claims is respectfully requested.

**35 U.S.C. § 103(a)**

Claims 10-15 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Culotta. Applicants respectfully traverse this rejection for reasons discussed above. Furthermore, claims 10-15 each depend on and include all the limitations of base claim 1. Claim 1 is patentable over Culotta for reasons discussed above; therefore, claims 10-15 are patentable for at least the same reasons. Withdrawal of the rejection and allowance of the claims is respectfully requested.

## **CONCLUSION**

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, and all other formal issues having now been fully addressed, this application is believed to be in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2003B101).

Respectfully submitted,

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